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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,548	08/15/2001	Stephen Suryaputra	120-179	9857

34845 7590 02/05/2009  
Anderson Gorecki & Manaras LLP  
33 NAGOG PARK  
ACTON, MA 01720

EXAMINER
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GREY, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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2416

NOTIFICATION DATE	DELIVERY MODE
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02/05/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

handerson@smmalaw.com  
officeadmin@smmalaw.com  
cmorrisette@smmalaw.com

<b>Office Action Summary</b>	<b>Application No.</b> 09/930,548	<b>Applicant(s)</b> SURYAPUTRA ET AL.	
	<b>Examiner</b> CHRISTOPHER P. GREY	<b>Art Unit</b> 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3,5-8,10-17,19,20,22-25,28,29 and 38-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 1-3,5-8,10-17,19,20,22-25 and 38-40 is/are allowed.
- 6) ☒ Claim(s) 28 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/06/08 has been entered.

### ***Response to Amendment***

2. In view of applicant's amendment filed 11/06/08 the status of the application is still pending with respect to claims 1-3, 5-8,10-17, 19, 20, 22-25, 28, 29, 38-40.

### ***Response to Arguments***

3. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Finn (US 6728205), in view of Masuo (US 6421316).

**Regarding claim 28,** Finn discloses a device for managing alternate site switching (**fig 1, APS processor within each node and Col 15 lines 36-43 shows hoe the processor designates/manages**) in an optical communication system (**Col 15 lines 1-2 shows optic fibers**) having a protected end-system (**fig 2, where nodes on the primary tree are equivalent to a primary end system, which include 30c and 30b**) in communication with a primary end-system (**fig 2, where source 30a is equivalent to a primary end system**) over an optical communication network (**Col 15 lines 1-2 shows optic fibers**), including: a failover tree database (**fig 1, 16 shows a routing table, where according to Col 15 lines 45-55, the routing table contains secondary/failover tree topologies**) for recording the structure of a failover tree (**Col 15 lines 45-55 where the routing table contains primary and secondary tree topologies**)

the failover tree computed prior to a detection of a degradation or failure affecting the primary-end system (**Col 15 lines 36-42, where the processor computes pairs of tree topologies, and Col 16 lines 13-15 shows that the paths are precomputed, so are therefore computed before failure**); detection logic operably coupled to detect a the degradation or failure affecting the primary end-system (**Col 16 lines 1-5 shows the protection switching module detecting failure**);

wherein the detection logic is operably coupled to detect a degradation or failure affecting the primary end-system by at least one of:

monitoring a bearer channel to the primary end-system (**Col 16 lines 1-5, where the module 18 detects failure by monitoring for an appropriate flow or signal on the channel/link 20a**);

Finn does not specifically disclose having at least a root node, signaling logic operably coupled to send a release message upstream toward the root node over the failover tree when the detection logic detects the degradation or failure affecting the primary end-system to release light-path resources to the primary end-system

Masuo discloses having at least a root node (**Col 11 lines 35036, see proxy root node**), signaling logic operably coupled to send a release message upstream toward the root node (Col 11 lines 55-60, where a RELEAE message is sent in the direction of the root node) over the failover tree (**Col 11 lines 42-45, where the release message is sent to the leaf terminals, where in order to send the release message to the leaf terminals the release message must pass through nodes 221, 224 and 226 and 222 which are all apart of the failover tree**) when the detection logic detects the degradation or failure affecting the primary end-system (**Col 11 lines 38-40, detects the fault**) to release light-path resources to the primary end-system (**Col 9 lines 22-25, the connection is released**).

It would have been obvious to one of the ordinary skill in the art at the time of the invention was disclosed to modify the standby routing mechanism as taught by Finn, as

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taught by Masuo, since stated in COI 2 lines 29-30 that such a modification will reduce the burden on the root node.

6. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Finn US 6728205, in view of Masuo (US 6421316) in view of Heeren (US 6311288)

**Regarding claim 29,** The combined teachings of Finn and Masuo do not specifically disclose lightpath logic operably coupled to relinquish lightpath resources associated with a primary lightpath to the primary end-system.

Heeren discloses lightpath logic operably coupled to relinquish lightpath resources associated with a primary lightpath to the primary end-system **(see abstract where primary path is restored when next available)..**

It would have been obvious to one of the ordinary skill in the art at the time of the invention was disclosed to modify the combined teachings of Finn and Masuo, with the alternate switching as taught by Heeren, since stated in the abstract that such a modification will assist in failure restoration.

### ***Allowable Subject Matter***

7. Claims 1-3, 5-8, 10-17, 19, 20, 22-25 and 38-40 are allowed.

### ***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

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Kanekar (US 7006431) discloses a method and apparatus for automatic protection switching within the optical environment

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTOPHER P. GREY whose telephone number is (571)272-3160. The examiner can normally be reached on 10AM-7:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Moe Aung can be reached on (571)272-7314. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aung S. Moe/  
Supervisory Patent Examiner, Art Unit 2416

/Christopher P Grey/  
Examiner, Art Unit 2416